

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, October 27, 2010 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at: 7:00 p.m.

Commissioners Present: Judy Lochner (Chairman), Warren Snow, Mary McLaughlin, Ernie Grimes, Ram Moennsad

Staff present: Ginny Scarlet

Minutes Approved: October 13, 2010 – *A motion to approve the minutes as amended (Moennsad/Snow) passed 5/0.*

Signed & Notarized:

- 48 Lambs Grove, Order of Conditions
- Certificate of Compliance for Oscar Gauvin , 47-49 Chickering Road, DEP # 293-0540.
The outstanding issue was completion of the wetland replication. Ms. Scarlet inspected on Oct.13, 2010 and reports that the replication is growing well in spite of the drought and functioning
A motion to issue a Certificate of Compliance (Grimes/McLaughlin) passed 5/0
- Letter to DCR Supporting re Midstate Trail Grant Application.

Lake Street Extension Enforcement.

The Commission considered the runoff diversion and control “plan” submitted by Margaret and Mary Wissiup to reduce impact (silt) reaching Lake Whittimore via Lake Street Extension from the driveway of 45 Lake St. Ext.. The plan was hand written, unsigned, gave a vague description, included no drawing and contained no commitment to a date for completion of the work.

Ms. Scarlet pointed out that the plan is a response to an Enforcement Order. That Order contained a deadline to have the work complete, December 31, 2010. The Order required submittal of a plan by today for Commission approval as effective. If not approved, the Order requires that the Wissiups hire a professional to create an effective plan.

The Commissioners agreed that the plan is too vague. No judgment of efficacy can be based on it. They were reluctant to require that the Wissiups hire an engineer. Ms. Scarlet said that she would prefer that the fix be designed by an engineer but she was willing to work with the Wissiups to come up with a better plan. All agreed, given the cost of an engineer, Ms. Scarlet's help might be the most expeditious way to move forward.

A motion to have Ginny work with the Wissiups to come up with a plan and have the Wissiups sign it using an approved contractor (Grimes/Snow) passed 5/0.

7:15 p.m. Opened the Public Hearing for Notice of Intent for Flexcon Company, Inc. Property: 1 Flexcon Industrial Park & South Spencer Road, Spencer, MA DEP#293-0750

John Birtz, Flexcon project manager, met with the Commission at their Sunday, October 24 site visit. Richard Kosian from Beals & Thomas, Inc. an engineering firm representing Flexcon described the project. Ed Allie and Michael Engle of Flexcon, Kevin Kozak from Cutler Associates and Liz Clark of Beals and Thomas were also present.

Mr. Kosian explained that a new 20,000 square foot (sq. ft.), two-story lab building is to be constructed where parking is now on Flexcon Campus. The footprint of the proposed building is 10,000 sq. ft. Approximately 1,200 sq. ft of the new building is in the buffer zone of a wetland across South Spencer. The rest of the project area which is within the buffer zone will be landscaped.

On a plan showing drainage, utility work, and grading, Mr. Kosian pointed out various features; the existing culvert under South Spencer Road, proposed new catch basins, a water quality inlet, and a subsurface infiltration system. He pointed out that the site naturally drains to the west-south-west. The proposed changes will reduce the site impervious surface by 445 sq. ft. Runoff from the parking lot will be collected by the catch basins, directed to the water quality inlet, discharged from the inlet to pipe around the new building, thence into the existing S. Spencer Road Culvert. At the request of Spencer Highway Dept. the existing culvert inlet will be rebuilt during this project. Roof runoff will go to an infiltration system under the reconfigured parking lot.

Ms. Lochner asked whether the Conservation Commission had received any (peer) review of the storm water.

Ms. Scarlet indicated that the reviews for Planning Board (PBd), Zoning Board of Appeals (ZBA) and Conservation Commission (CC) were consolidated and has not been received at the office yet. The ZBA Special Permit Hearing will be on Nov. 9, the day before the next scheduled CC meeting and the PBd Site Plan Hearing will be on Nov. 16. She suggested that after hearing most of the information at this meeting, the CC Hearing be continued to November 10. The applicant's project would not be held up because it must wait for the other permits anyway.

Ms Lochner asked where the entrance to the new building would be. Mr. Kosian pointed out that it would be on the east side. She asked where the construction vehicles would get access. She commented that she did not see the location of the construction entrance on the plan. Mr. Kosian indicated on the plan the driveway that would be the main access. (Location not verbally described). He said the construction entrance could be put onto the plan. Ms. Lochner pointed out that there is a catch basin in the road near

that entrance. Mr. Kosian replied that a filter bag would be used and that the construction access would be from the east end of the parking lot. Ms. Lochner asked whether the erosion control line could be closed off by the existing culvert inlet once that had been rebuilt. Mr. Kosian indicated that it could and that information added to the plans.

Ms. Lochner asked for explanation of the “wet lab” within the “dry lab building.” Mr. Kozak replied that even a dry lab has a bit of wet lab operations. Flexcon is already carrying out those activities in existing buildings and is familiar with the appropriate handling precautions & containment measures. Solvent use is restricted to the wet lab segregated area. The chemicals are used in testing their products. They don’t just dump stuff down the drains. Existing dry lab activities, with their wet lab components are just being consolidated into this building.

Mr. Grimes noted that he observed a large scoured out hole in the wetland at the outlet end of the existing culvert under S. Spencer Road. He asked whether some rip-rap could be placed to prevent more erosion where the water drops 4 feet from the pipe. Mr. Kosian commented that rip rap added at that spot would be wetland fill. Mr. Grimes and Ms. Lochner both felt that it would be a resource improvement because of the size of the hole. Mr. Kosian said he thought the work should be a different Notice of Intent and the Town would have to participate because the hole is on Town land.

Ms. Lochner asked for details of the culvert inlet replacement, commenting that the existing structure is only a paved direct shut. She asked if the new structure would give some water quality improvement. It collects runoff from the street with sand. Mr. Kosian indicated that rip rap could be put in the swale by the road as part of the inlet work. If the Highway Department approved it could be put on the plan.

Ms. Scarlet asked if there are other ways to minimize scour at the culvert 16 inch outlet. She and the Commission members agreed that fixing that is not Flexcon’s responsibility. The hole is on Sewer Dept land. She offered to talk with the Sewer Dept and the Highway Dept and see whether an improvement could be made. Mr. Kosian offered to provide some suggested measures with a drawing. Ms. Scarlet said that would be “fabulous.”

No one having further comment, **all agreed to continue the Hearing until the November 10, 2010** Commission meeting pending the peer review.

Other Business

Midstate Trail Grant. Utilities & Facilities is applying to DCR Trails Program to GPS the Midstate Trail through Spencer, overlay that with Spencer parcel maps, identify the trail private parcel owners, research deeds to determine whether there are trail related easements on those properties, work with the Midstate Trail folks to set priorities for prompt preservation, adjustment of the trail route, reconnection of segments etc. – all in one year. The long term project is to preserve the whole route through Spencer. The strategy is to apply for successive grants; next to work with landowners, survey lots, write legal trail easements and acquire the easements. We have endorsement from Town Administrator, Adam Gaudette.

Ms. Scarlet asked the Commission to sign a letter in support of the grant application. The letter has to be in by tomorrow. Ms. Scarlet has been getting support letters from trail organizations, who have been very responsive.

A motion to sign in support (Moennsad/Grimes) passed unanimously.

Depot Trail grant application has been postponed for a year. Ms. Scarlet met with Dan Gould, President of the Mass Snowmobile Association who is helping to write this Grant application. He asks that Ernie and Art Williamson estimate the work and materials needed for the project this fall so projected costs can be determined. Mr. Grimes agreed to contact Mr. Williamson and schedule a trail walk. Ms. Scarlet will join them to take notes. She will forward that information to Mr. Gould so he can identify any gaps. Then we can tackle getting donations and volunteers. Mr. Gould suggested that if prison labor is used, the Snowbirds might be able to supply their lunches.

Herbicide Notice Guidelines

Ms. Scarlet proposed putting the rationale for the guidelines into the cover letter to affected pond associations. Mr. Moennsad asked whether applicators apply for a permit from DEP (BRP form WM04). Ms. Scarlet replied that is done annually and Spencer Orders of Conditions require that the Commission be sent a copy of the DEP permit and copies of the licenses of the herbicide applicators. He contributed guidelines and requirements from Ohio DEP website about sign size and where to post as a possible model. The Commission discussed what notices should say and where to place the notices. CTY (Reverse 911) should be suggested and may be requested by the pond association if the Board of Health Agent is available to use that system. Mr. Moennsad commented that all the information that's needed on a notice is in the DEP permit to apply. Ms. Lochner mentioned that Mass. Dept. of Agriculture also has requirements for posting which Ms. Scarlet can look up. Ms. Scarlet said she would check all the websites; USDA, Mass Dept of Ag, DEP, and USEPA.

Ms. Lochner asked why the draft guidelines included a recommendation that organizations using the pond should contribute to the pond association. Ms. Scarlet said the cost of membership is usually low, it helps communication, and those who benefit from the pond being maintained should consider supporting the maintenance.

Ms. Scarlet will redraft the guidelines based on the Commission's input.

Ginny Report

Chickering Rd Culvert Appeal/ Emergency Certification. No Superseding Order of Conditions (SOC) yet. Mr. Bellino, the DEP reviewer, now says an SOC might be issued by November 3. Mr. McNeil says there's still time to get the work done. Mr. Donohoe sent DEP more comments, which in Ms. Scarlet's opinion, have no substance. Mr. Bellino has asked for a response to those comments from the Town's engineer. Ms. Scarlet believes Mr. Donohoe's new calculations are erroneous, but admits she's not a P.E. Mr. McNeil will not formally ask for an Emergency Certification unless DEP issues a positive SOC. He said that the work will take a week. The Commission will await events.

Northwest Road – Ms. Scarlet responded to a Highway Department complaint. Lots of mud reached the road from upland lots at #s 168 & 172 and some from 190 where there's an Order of Conditions. Notices of Violation (NOV) were sent to Mutual Builders of Worcester, the owner and contractor for all three properties. For 190 there was never any request for an erosion control inspection. There is no silt fence and the hay bales are rotten. Silty water was discharging into the wetland. Mud from the upland lots reached wetlands via the road so CC has jurisdiction over all three lots. See photos.

Mr. Grimes reminded Ms. Scarlet that Spencer's local bylaw requires storm water management for any subdivision of 2 or more lots. These three lots are all subdivisions by ANR from Dowgelowicz land, originally all one parcel. The Commission decided that the bylaw storm water management section applies. They agreed with the requirements Ms. Scarlet put in the Notice of Violation.

122 Charlton Road, a.k.a. 2 Howe Road – The property is now in tax taking. The erosion controls behind the house under construction have been over run and buried. I sent an NOV with a fine. This is the second erosion control violation at this site.

Spencer Abbey Forestry – Received a new forest cutting plan & permit application to DCR. Cutting will be north of 7mile river on the west side of Rt. 31. It'll be very visible so the Commission is likely to get questions or complaints. I expect no problems with this one. The forester, Kurt Leslie, is careful.

Spencer Abbey Dam - Pond was drawn way down (approx 3 ft) for inspection. There are problems; literally water leaking through under the dam. A fix is being designed. Engineers at Tighe & Bond have promised an update soon.

Water levels and drought. Flows are up. Howe Pond, Thompson Pond, Browning Pond, Cranberry Lake and Lac Marie (Spencer Abbey) are all now up to their spill ways. Bond cut back their water use until the Sevenmile R. flow went over 10 cfs. However, the drought advisory was continued by DCR on Oct. 18, based on ground water levels and base stream flows. Both those are still well below normal.

64 Browning Pond Road – someone needs to look at the retaining wall. There is an active Order of Conditions but the property abuts Ms. Scarlet's land. The Commissioners added it to their site visit list.

100 North Spencer Road (Rt 31)–James Sadusky. Mr. Sadusky has a ground water pond. Drainage from Rt. 31 has been piped into his pond. The pond has no other inlet. Sand has accumulated at the pipe outlet and now the headwall at the outlet is crumbling. In addition the pond has been used for fire fighting. Mr. Sadusky is willing to give the Town a permanent drainage easement

Mr. Sadusky wants to have Ed Thibault dig the sand out of pond and return it to its original shape and depth. He needs an Order of Conditions. Since town drainage is the problem, the headwall repair and fire ponds are all related to public safety, I suggested that there be a joint NOI. I consulted Mr. McNeil. If Mr. Saduski. tends to the dredging,

the Hwy Dept can eventually do maintenance on the drain, drain pipe and head wall. Mr. McNeil thinks the town could fund the legal work to create the easement.

State Forest Cutting Revenue: Spencer received \$16.54 from DCR, the town's share of the income generated by forest cutting in the State Forests in Spencer. This income is usually appropriated by Town Meeting for the Land Acquisition Fund.

Flexcon- Ms Scarlet's research on line determined that Flexcon is not a Superfund site, but there are a few spills recorded in DEP's 21E database. The LSP reports show that Flexcon's recent events were very quickly tended to. Flexcon now has containment areas around the loading areas & spill kits on hand.

15 Sherman Grove A complaint inspection revealed that a retaining wall is being replaced at the shore of Sudgen Res. A tractor had been stuck in the area exposed by the low water. The project is to far along to stop. The tractor ruts have been repaired. There has been no erosion. The property owners will file a retroactive Notice of Intent. Sugden official draw down will start November 1.

Information Requests Ms. Lochner said Malcolm Speicher asked about 98 Chickering Rd. An excavator was at work near the water and materials will be carried in. Ms. Scarlet said she'd check..

Mr. Speicher also asked whether the public is permitted to walk on the Audubon Sanctuary land. Someone on that property told him that it is closed to the public. Ms. Scarlet believes that land is open to the public. She will verify.

New Applications for next meeting: 2 Williams Dr., NOI
Rustic Lane, (Assessors' Map U17, parcel 22) RDA

Site visits

Sunday 10/31/10. Meet at 8:30 a.m. at Town Hall
12 Williams Drive
Rustic Lane
64 Browning Pond Road

Mr. Grimes will be absent from the next meeting (11/10/10). Ms. McLaughlin will be late.

A motion to adjourn the meeting at 9:00 p.m. (McLaughlin/Grimes) passed unanimously.

Respectfully submitted by:

Ginny Scarlet, Wetland
Development & Inspectional Services

LIST OF DOCUMENTS USED

- Conservation Commission- Town of Spencer Agenda for Meeting of October 27, 2010
- Order of Conditions for 48 Lambs Grove, DEP #293-0748
- Certificate of Compliance for 47-49 Chickering Road, DEP #293-0540
- Notice of Intent for Flexcon Dry Lab Building, prepared by Beals & Thomas, October 5, 2010.
- Set of Plans: Proposed Dry Lab in Spencer Massachusetts, 16 sheets, dated 10/4/2010, Prepared by Prepared by Beals & Thomas, Inc. Civil Engineers, and Cutler Associates, Inc. Architects. Labeled by Spencer Conservation Commission, "NOI Plan, Received 10/5/2010."
- Agreement to Continue Public Hearing, Signed by John Birtz or Beals & Thomas and Spencer Conservation Commission members. Dated 10/27/10. Hearing continued to 11/10/10.
- Copy of letter to Joe Bellino, DEP CERO, from Mark Donohoe, P.E., Acton Survey & Engineering, Inc., dated Oct. 21, 2010 and attached calculations
- Letter from Spencer Conservation Commission to Amanda Lewis, Dept of Conservation & Recreation, dated Oct 27, 2010, re: Spencer Midstate Trail Preservation grant application.
- Photograph of 15 Sherman Grove, taken by Ginny Scarlet, dated 10/10/2010
- Draft Timeline of tasks for the Midstate Trail Preservation project.
- Photographs of 190, 172, 168 Northwest Road, and of Northwest Road itself, 4 pages, taken by Ginny Scarlet 10/27/10
- A copy of DEP BRP form WM04, Herbicide Application form and instructions from DEP's website. Blank
- A copy of the drainage improvement plan as narrative, written on the front page of Enforcement Order issued to Mary and Margaret Wissiup on 9/15/10 – no signature, no date. Received by the Conservation Commission 10/27/2010.